

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4 -----
5 BALLY MANUFACTURING CORPORATION,

6 Plaintiff,

DOCKETED

OCT 10 1980

7 -vs-

Case No. 78-C-2246

8 D. GOTTLIEB & CO., WILLIAMS
9 ELECTRONICS, INC., and ROCKWELL
INTERNATIONAL,

10 Defendants.

FILED

OCT - 9 1980

11 -----
12 DEPOSITION of DANIEL N. WINTER, a witness in
13 the above-entitled action, taken at the instance of the
14 Defendants, under the provisions of the Federal Rules of
15 Civil Procedure, pursuant to Notice and Agreement, before
16 KATHLEEN M. HACKBARTH, a Notary Public in and for the State
17 of Wisconsin, at 825 North Jefferson Street, in the City and
18 County of Milwaukee, State of Wisconsin, on the 17th day of
19 June, 1980, commencing at 9:30 o'clock in the forenoon.

20 APPEARANCES

21 FITCH, EVEN & TABIN, by DONALD L. WELSH, Esq.,
22 A. SIDNEY KATZ, Esq., and JEROLD B. SCHNAYER, Esq., 135 South
23 LaSalle Street, Chicago, Illinois 60603, appeared on behalf
24 of the Plaintiff, Bally Manufacturing Corporation, and the
25 witness, Daniel N. Winter.

1 ARNOLD, WHITE & DURKEE, by JOHN F. LYNCH, Esq.,

2 2100 Transco Tower, Houston, Texas 77056, appeared on behalf
3 of the Defendants, D. Gottlieb & Co. and Rockwell International.

4 MC DOUGALL, HERSH & SCOTT, by MELVIN M.

5 GOLDENBERG, Esq., 135 South LaSalle Street, Chicago, Illinois
6 60603, appeared on behalf of the Defendant, Williams Electronics,
7 Inc.

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P R O C E E D I N G S

(An off-the-record discussion was held.)

(An off-the-record session)
MR. LYNCH: This I want on the record. You
say these documents are marked confidential. I want to
know if they're Bally confidential.

MR. KATZ: They're MCI confidential.

MR. LYNCH: MCI doesn't exist.

MR. WELSH: Confidential insofar as the witness
is concerned. That's --

MR. LYNCH: So Bally is not making this assertion
they're confidential; only the witness is making the
assertion?

MR. KATZ: With respect to some of them.

MR. LYNCH: You better tell me which ones are Bally confidential. I will take them all subject to the protective order, subject to the -- I can only go to the court for relief. I want to know whether they're Bally confidential.

MR. KATZ: I think that Bally can consider -- can make a claim of confidentiality on behalf of a predecessor of an acquired company.

MR. LYNCH: Bally acquired what company? MCI 2

MR. KATZ: This was Dave Nutting Associates,
and this was a predecessor.

MR. GOLDENBERG: I don't see how that can be.

1 through 3356.

2 MR. LYNCH: What are they?

3 MR. SCHNAYER: Well, you can --

4 MR. LYNCH: Can you characterize them on the
5 record?

6 MR. SCHNAYER: Checks, copies of checks.

7 MR. LYNCH: This is marvelous. I can't read
8 them.

9 MR. GOLDENBERG: That's why you got copies of
10 them.

11 MR. LYNCH: Why are they being produced? They
12 look like checks from MCI to I don't know who. Why are
13 these Bally documents --

14 MR. SCHNAYER: Well, they're documents that
15 Bally has obtained.

16 MR. LYNCH: A, I can't read them. B --

17 MR. WELSH: Show him the originals.

18 MR. SCHNAYER: I'll show you the originals.

19 MR. GOLDENBERG: What do you mean, they're
20 documents that Bally has obtained?

21 MR. SCHNAYER: Well, exactly what I said.

22 MR. GOLDENBERG: Where did Bally obtain them
23 from?

24 MR. SCHNAYER: I don't think we have to tell you
25 that. They were obtained and they're being produced.

1 MR. GOLDENBERG: You don't think you have to
2 tell us that. What are they being produced for?

3 MR. SCHNAYER: As part of the document request.

4 MR. GOLDENBERG: They were obtained from Mr.
5 Nutting?

6 MR. SCHNAYER: I don't think we have to make a
7 statement about that so I won't.

8 MR. LYNCH: Well, I think you do because there
9 is another source of documents relating to MCI that
10 provides the source to us that might lead to relevant
11 evidence. It certainly is relevant where this other
12 source of documents is.

13 MR. SCHNAYER: Those copies are yours to -- to
14 keep.

15 MR. LYNCH: These?

16 MR. SCHNAYER: No, the copies I gave you.

17 If you want to try to make better copies, you're more
18 than welcome to.

19 MR. GOLDENBERG: Do we have any other documents
20 that Bally has obtained bearing on MCI that you're not
21 giving us?

22 MR. SCHNAYER: Those are documents that we ob-
23 tained, and I'm giving them to you.

24 MR. GOLDENBERG: Do you have any others that
25 you're not giving us?

1 A MR. SCHNAYER: Not that I know of.

2 A MR. GOLDENBERG: Who would know?

3 A MR. KATZ: One thing that concerns me, John,
4 when you said that you rejected our position at hand with
5 respect to the protective order, does that mean you're
6 not accepting the documents under the conditions of the
7 protective order entered into in this case?

8 A MR. GOLDENBERG: The ones we're looking at now?

9 A MR. LYNCH: No. No, I reject your position
10 out of hand that the protective order isn't sufficient.
11 I will agree to accept these under the protective order.
12 I reject the position they're Bally confidential. I will
13 respect this witness' desire that they not be published
14 subject to the fact I will go to the Court if I feel they
15 should be. So far I haven't found anything in here. This
16 is an agreement I'm entering into. I don't know if they're
17 subject to the protective order or not. I will treat them
18 as such.

19 A MR. KATZ: Thank you.

20 A (An off-the-record discussion was held.)

21 A DANIEL N. WINTER, called for examination herein,
22 having been first duly sworn, testified as follows:

23 A EXAMINATION

24 A BY MR. LYNCH:

25 Q Please state your name.

1 A Daniel N. Winter.
2 Q Where do you live, Mr. Winter?
3 A Pardon?
4 Q Where do you live?
5 A 5410 Elmhurst, Mequon, Wisconsin.
6 Q Now, by whom are you employed at the present time?
7 A Kurz and Root.
8 Q And what -- what business is that company in?
9 A Kurz and Root builds motor generators, electronic control
10 systems, and other associated electrical components.
11 Q And what is the nature of your duties and responsibilities
12 for that company?
13 A I am vice president. Basic responsibility is that of
14 general manager.
15 Q Now, Mr. Winter, have you ever had your deposition taken
16 before?
17 A No, I have not.
18 Q Do you understand what's going on?
19 A Yes, I do.
20 Q All right. Let me explain it to you a little bit. There
21 is an altercation going on concerning some matters with
22 which you potentially had an association or some informa-
23 tion, relevant information, and this deposition is being
24 taken because in order to bring facts before a court,
25 witness testimony under oath is needed. I would like

1 you to understand that that witness testimony is supposed
2 to be of things of which you have first-hand knowledge,
3 things you saw, things you observed, things -- not things
4 you heard as rumor which even you might accept as business
5 rumor, you know, the way you conduct your ordinary
6 business. You can tell me about those rumors if you
7 like. If you can keep in mind you're talking about
8 something you didn't observe directly, if you would state
9 it for the record, that will save us some time and
10 difficulty. Otherwise, you're put under oath because the
11 testimony that you are giving will or possibly can be used
12 in court, and although there is no judge here, your
13 testimony here is the same as if it were given before
14 the judge in Chicago. Now, if you have any questions,
15 you don't understand my questions, please indicate you
16 don't understand them, and I'll rephrase them. It is my
17 object to try to get information and not to in any way
18 confuse you or confuse any issues.

19 Now, I understand, Mr. Winter, you are repre-
20 sented by counsel here; is that correct?

21 A That's correct.

22 Q Now, are the counsel Mr. Welsch and Mr. Katz and Mr.
23 Schnayer?

24 A Yes, they are.

25 Q Now, do you know what the role of these gentlemen has

been in the litigation in which this deposition is being taken?

3 A I don't quite understand your question.

4 Q Well, you know there is litigation involving Bally
5 Manufacturing Company?

6 A Yes, I do.

7 0 Do you know that these gentlemen represent Bally?

8 A Yes, I do.

9 Q Now, you then understand that these gentlemen have an
10 interest to protect in the litigation?

11 A Yes, I do.

12 Q Do you have the same interest to protect?

13 | A No, I don't.

14 Q Okay. I want to ask you about your conversations with
15 these gentlemen in connection with the testimony you're
16 going to give. Have you had any conversations with them
17 about the testimony that you would give at this deposition?

18 A I have had conversations with them as to the nature of the
19 deposition and that I should be totally honest and forth-
20 right.

21 Q Um-hmm. Now, did you have any conversations with them
22 about occurrences at the time period that you were
23 associated with Mr. Nutting, Mr. Frederiksen in MCI?

24 A Yes, I did.

25 Q Did you relate to them any facts that occurred back then?

1 A Yes, I did.

2 Q Well, in general, tell me when you had these conversations
3 with them and -- relating to facts of your association
4 with MCI.

5 A I do not recall the exact date of my first phone call.

6 Q I understand.

7 A But I did have a conversation with Jerold Schnayer and
8 Donald Welsh in Milwaukee approximately one month ago,
9 where we talked for two hours about the experience I
10 had --

11 MR. WELSH: I want to caution the witness that
12 it is not appropriate to discuss communication -- the
13 subject matter of the communications which we have had
14 which as -- as your counsel, representing you, those
15 communications are privileged communications which you
16 as the person represented have the right to claim, so
17 while Mr. Lynch is entitled to inquire about when meetings
18 took place and who was present, he is not entitled to
19 inquire about the conversations.

20 MR. LYNCH:

21 Q Well, understand this, Mr. Winter. You can tell me
22 anything you want. What I want to know is why, for what
23 reason, you might desire to talk to Mr. Welsh and/or
24 Mr. Schnayer about facts that occurred and not to me.

25 We're talking about the occurrences back in the time period

1 of 1973, 1974, perhaps 1975, when you were connected
2 with MCI. I can assure you that there is no desire on
3 the part of any person in this litigation to involve
4 MCI or yourself in any way that could possibly be adverse
5 to you. I don't think your lawyers could advise you
6 possibly we could have that intent. However, you must
7 understand that Mr. Welsh has an ax to grind in this
8 litigation, and consequently I'd like us to be forthright
9 and for us to discuss everything that was discussed be-
10 cause it is true, isn't it, Mr. Winter, that you were
11 contacted by a lawyer for Williams who I believe is Mr.
12 Rifkin (phonetically), and you wouldn't talk to him; is
13 that correct?

14 A That's correct.

15 Q Now, insofar as I can see, Mr. Winter, is there any reason
16 why you won't talk to him and won't discuss with me the
17 same things you discussed with Mr. Welsh?

18 A Mr. Rifkin called me in Appleton at a very inopportune
19 time, and I just could not meet with him. He called me
20 subsequently to that and at that point I decided I did
21 not want to meet with him.

22 Q Um-hmm. That's what I want to know.. Why?

23 A I can't give you a real reason.

24 Q Have you been advised by Mr. Welsh that somehow we might
25 involve you personally?

1 A No, I have not.

2 Q Well, I want you to understand, Mr. Winter, that various
3 facts about which you will be testifying are facts that
4 perhaps might have some real import, perhaps might not,
5 but I believe for you to try to shield any conversations
6 you had with the attorneys from the other side in this
7 connection just doesn't seem to make any sense. You're
8 not under any threat or any potential difficulty in this
9 matter. So I'd like to ask you if you'd tell me what the
10 nature of your conversations with Mr. Welsh and Mr. Katz
11 were. Now, understand Mr. Welsh has an ax to grind and
12 he's advising you not to tell me. I want you to tell me
13 anyway, because I don't have -- I'm going to have it
14 out so everybody can read it including Mr. Welsh.

15 A Your question is too general for me to answer.

16 MR. WELSH: I object to the question also as
17 calling for privileged communications, and also, I might
18 note for the record that Mr. Lynch also has an ax to grind.

19 MR. LYNCH: Of course I do.

20 Q I admit that, Mr. Winter, but I'm not keeping any secrets.
21 It's all going down here on a record that the Court will
22 see, and that's the point I want to make.

23 MR. WELSH: You're entitled to ask him questions
24 about his recollection of what went on at MCI back at
25 the --

1 MR. LYNCH: Well --

2 MR. WELSH: -- time period you referred to, but
3 you're not entitled to inquire as to his conversations
4 with me.

5 MR. GOLDENBERG: You're absolutely wrong, Mr.
6 Welsh. Judge Grady has expressly said that any conversa-
7 tions with attorney -- with an attorney with respect to
8 the witnesses' respective testimony can be inquired into.

9 MR. WELSH: That --

10 MR. GOLDENBERG: Any suggestions or proposals
11 made, any kind of conversation going to that kind of thing
12 is appropriate for discovery.

13 MR. WELSH: That is not true.

14 MR. GOLDENBERG: That is true.

15 MR. WELSH: It's not what the Judge ordered.
16 The Judge said that it was proper to ask the witness
17 questions as to whether he had been told how to answer
18 any questions that might be put to him. That is different
19 from asking for relation of the conversations.

20 MR. LYNCH:

21 Q Okay. Let me ask you this, Mr. Winter. I want you to
22 tell me what Mr. Welsh told you about this lawsuit and
23 what facts have been developed in it thus far.

24 MR. WELSH: I object to the question as calling
25 for privileged communication and instruct the witness he

1 need not answer.

2 MR. LYNCH: Now --

3 MR. GOLDENBERG: Mr. Welsh, you can't instruct
4 the witness as to anything.

5 MR. LYNCH: Wait, wait a minute. Let me --

6 Q Mr. Winter, you see what we're getting into here. Now,
7 I've -- really, Mr. Winter, I've absolutely no desire
8 at all to in any way inconvenience you, but you can
9 appreciate what is happening here as well as I can.

10 Let me explain something to you, Mr. Winter. The whole
11 idea of an attorney-client communication being privileged
12 is so that a client can seek the advice of a lawyer
13 under the proper circumstances, when he needs one, when
14 he's in trouble, when his business is in trouble, when
15 the cops are after him. This is not the situation we're
16 in, Mr. Winter. Now, furthermore, what Mr. Welsh told
17 you about the litigation is not privileged. The only
18 thing that's privileged is what you tell him. What he
19 tells you about the litigation and the background and
20 what he wants to prove and whatever has gone on in this
21 litigation is not privileged information. So I'd like to
22 ask you once again, Mr. Winter, to relate for me what
23 Mr. Welsh told you concerning this litigation in your con-
24 versations with him prior to this deposition.

25 MR. WELSH: I object to the question as calling

1 for privileged communications.. I disagree with Mr. Lynch
2 as to what constitute privileged communications and I
3 advise the -- the witness the question need not be
4 answered, you can refuse to answer to protect your privi-
5 lege.

6 MR. LYNCH:

7 Q You can, but I'm going to be back; there is going to be
8 another time. You've got to understand my position. Do
9 you understand my position, that I'm not trying to in-
10 convenience you, and I'm not trying to get you in any
11 potential difficulty personally, or MCI?

12 A I understand both positions. I prefer that you ask me
13 direct, specific questions.

14 Q Well, I am. The first thing I want to know is precisely
15 what Mr. Welsh told you about this litigation, as a
16 direct specific question.

17 MR. WELSH: Continuing objection as calling for
18 privileged communications. Advise the witness he not
19 answer.

20 MR. LYNCH:

21 Q Do you refuse to answer, Mr. Winter?

22 A In view of the discussions at this table, yes, I do
23 because it seems too unclear in mind mind as to who's
24 correct.

25 Q Well, is it fair to say, Mr. Winter, that your position

in this litigation is one where you are accepting the advice of Bally's lawyers; isn't that correct?

3 A During this deposition, yes.

Now, for what reason are you doing that?

5 A As my choice.

6 Q Do you have --

MR. WELSH: Object to the question as calling
for conclusions, not facts within this witness' knowledge.

MR. LYNCH:

10 Q I want to establish one thing for you, Mr. Winter. That
11 your testimony has to be evaluated also as to its credi-
12 bility, and I want to thoroughly establish that you're
13 taking advice from Bally's lawyers and that you won't
14 answer my questions that you're willing to answer for
15 them and that is the case, isn't it, Mr. Winter?

16 A I don't think that's a correct summation.

17 Q Well, you did speak to them earlier before this deposition;
18 correct?

19 A Correct.

20 Q You did have discussions with them that involved occurrences
21 in this lawsuit; correct?

22 A Yes.

23 Q And you won't tell me what those were; isn't that right?

24 A Yes.

25 Q And you refused to have a discussion with Mr. Rifkin who

represents one of the defendants, prior to that deposition;
isn't that correct?

That is correct.

3 A That is correct.
4 Q Now, tell me, Mr. Winter, what you -- did you go -- tell
5 me when you finished your formal education and what
6 the nature of that was.

A My formal education was at the University of Colorado
with a bachelor's degree in engineering.

9 0 What type of engineering?

10 A Mechanical.

11 Q When did you get that degree, Mr. Winter?

12 | A 1969.

13 Q Now, prior to that time, had you had any work experience?

14 A Prior to college?

15 | 0 Yah. Prior to going to college.

16 A Yes, I did.

17 O What was the nature of that work?

18 A I worked -- during the summertime I worked in factories
19 and I also worked for a landscape gardener.

20 Q And you graduated from college in 1969?

21 A University of Colorado.

22 Q And what did you do then?

23 A Went to work for Martin Marietta (phonetically).

24 Q Where?

25 A In Denver, Colorado.

1 Q And what was the nature of your duties and responsibilities
2 for Martin Marietta?

3 A I was in production and production purchasing.

4 Q What type of apparatus was produced by Martin Marietta?

5 A It was during the missile scare and we were building
6 missiles.

7 Q Okay. How long did you work for Martin in Denver?

8 A Two years.

9 Q What did you do then? We're talking about 1971 or there-
10 abouts now?

11 A Martin Marietta transferred me to Tucson, Arizona.

12 Q What did you do in Tucson?

13 A Continued working for them in a purchasing capacity.

14 Q Now, were you doing engineering work on these missiles
15 while you were in Denver?

16 A No, I was not.

17 Q What kind of work were you doing?

18 A Production and purchasing.

19 Q I see. In Tucson, what were you doing once again?

20 A Purchasing for Martin Marietta.

21 Q Once again it was with respect to missiles?

22 A Yes, it was.

23 Q How long did you stay in Tucson?

24 A Two years.

25 Q We're talking about 1973 or thereabouts then?

1 A Yes.

2 Q What did you do then?

3 A I left Martin Marietta and joined Cutler-Hammer Corporation
in Milwaukee, Wisconsin.

4 Q What is the business of Cutler-Hammer?

5 A They build electronic and electrical controls and control
systems.

6 Q For what kind of apparatus?

7 A Total industry apparatus. All the way from automotive
steel mills to homes.

8 Q Okay. What was the general nature of your duties and
responsibilities for Cutler-Hammer?

9 A I was a project manager for large, complex industrial
systems.

10 Q Like, give me --

11 A Automation of steel mills, automotive plants.

12 Q I see. Okay. How old are you, Mr. Winter?

13 A Forty-seven.

14 Q Now, prior to the time you graduated from college in
1969, you gave me a history of -- of general summer jobs
and the landscape architect. Did you have any long-term
employment prior to going to college?

15 A I went from high school to college.

16 Q 1969?

17 MR. WELSH: He said he graduated from college

1 in 1969.

2 THE WITNESS:

3 A I made an error in my speech. It was actually '59.

4 MR. LYNCH:

5 Q I figured it was 1959. And so we got to 1973 with a
6 scope of two or three years employment and somehow it's
7 gotten out of wack.

8 A You're correct.

9 Q Can you just recount what you did from the time you got
10 out of college in 1959?

11 A I worked for Martin Marietta in Denver.

12 Q And in Tucson?

13 A Then in Tucson. Then I left Martin Marietta, joined
14 Cutler-Hammer in Milwaukee.

15 Q When was that that you joined Cutler-Hammer in Milwaukee?

16 A I don't recall the date.

17 Q I know. What year? DTC

18 A I'm not sure of the date right now.

19 Q Was it in the 1970's or 1960's or --

20 A I believe that was 1969.

21 Q Okay. And so otherwise you've given me a correct summary
22 of your work experience and the nature of the duties and
23 responsibilities you had with Martin Marietta before that
24 time?

25 A Yes, I have.

1 Q Okay. So you were with Cutler-Hammer dealing with these
2 large scale control systems. How long did you stay with
3 them?

4 A Three years.

5 Q And where did you move then? What was your next job?

6 A I left Martin Marietta (sic) to join a company called
7 Nutting Industries.

8 Q And where were they located?

9 A In Milwaukee.

10 Q That was in 1972 or '73 that you jointed Nutting Industries?

11 A It would have been prior to that.

12 Q When you jointed Nutting Industries, what was the first
13 position that you held with this company?

14 A I was a general manager.

15 Q What was the nature of the business of Nutting Industries
16 when you joined that company?

17 A They built arcade games. Specifically the IQ Computer.

18 Q When you came on board was that the only game being built?

19 A Yes, it was.

20 Q And you were general manager. What were the nature of
21 your duties and responsibilities in connection with this
22 game, the IQ Computer?

23 A The main thrust was that of production, scheduling and
24 general management of the plant.

25 Q Now, at the time that you joined Nutting Industries, how

1 many employees -- how many employees did the company have?
2 A They had approximately 70 to 80 employees.

3 Q Now, Mr. Nutting was -- Mr. David Nutting was an employee,
4 or was associated with the company when you joined Nutting
5 Industries?

6 A Yes, he was.

7 Q And you indicated that the only game being made when you
8 joined the company was the IQ Computer?

9 A When I joined, yes, it was.

10 Q Now, was there a gentleman named Livingston who was in-
11 volved in that -- in Nutting Industries at that time?

12 A Not that I recall.

13 Q Do you ever recall a fellow named Livingston?

14 A I do not recall that name.

15 Q Now, the IQ Computer, what -- do you remember how that
16 game operated, Mr. Winter?

17 A It was basically an electro-mechanical game. It had only
18 two printed circuit boards, and it also had a projection
19 or videotape system.

20 Q Um-hmm.

21 MR. LYNCH: Let me take five minutes right now.

22 (A recess was taken at 10:35 a.m.)

23 (The deposition reconvened at 10:45 a.m.)

24 MR. LYNCH: Okay.

25 Q At the time you joined Nutting Industries, Mr. Winter,

1 how many people were involved in the design of games for
2 that company?

3 A When I joined, two people were doing the design work.

4 Q Who was that?

5 A Dave Nutting and Harold Montgomery.

6 Q Who designed the IQ Computer to your knowledge?

7 A It was a dual effort between Dave Nutting and Harold
8 Montgomery.

9 Q When you were there, were you there when that item was
10 first designed?

11 A I was not there when the original model was designed.

12 Q So you don't know who designed the first one then?

13 A Not the original.

14 Q Okay. Now, were other modifications of the IQ Computer
15 made thereafter? *in question*

16 A Yes, there were.

17 Q And did they go by the same name?

18 A Yes, they were.

19 Q What other names did they go by?

20 A They changed the model number from IQ Computer to, I
21 believe it was 101 to IQ Computer with another model
22 number.

23 Q Okay. And what was the difference between those two --
24 Were you there when the second model number was first pro-
25 duced?

1 A Yes, I was.

2 Q What was the nature of the change between the first one and
3 the second?

4 A There were basic improvements in the cabinetry and in
5 the electrical controls.

6 Q Do you know the nature of the changes in the electrical
7 controls?

8 A The game had an added feature of a gong or bell, and it
9 had an improved projecture -- projector.

10 Q This was still the IQ Computer? It was still called the
11 IQ Computer though?

12 A Yes, it was.

13 Q Do you remember the next change that occurred in connection
14 with that device?

15 A We made a dual IQ which was a two-player version of the
16 original.

17 Q Do you know who designed that?

18 A Dave Nutting and Harold Montgomery.

19 Q Now, how did that differ from the former IQ Computer?

20 A It allowed two people to play the same game.

21 Q And any other changes as far as the electronics of the
22 game were concerned?

23 A Other changes were necessitated by the fact that two
24 people were playing it so the circuit had to be completely
25 redone.

1 Q Now, what changes were involved -- Strike that. Were
2 there any characteristics of the circuit in the dual IQ
3 Computer that didn't exist formerly in the IQ Computer?

4 A Yes.

5 Q And what was that?

6 A The scoring system had-a be redone to keep score for two
7 players rather than one.

8 Q Um-hmm.

9 A And two sets of controls had to be added.

10 Q How about the internal operation of the device? Were
11 there any changes in connection with the circuitry there?

12 A The items I just enumerated required circuit changes.

13 Q I see. Do you know if there was ever a patent sought or
14 obtained on this dual IQ Computer design by Nutting
15 Industries?

16 A I do not know.

17 Q Have no idea whther it was --

18 A I believe a patent was applied for and obtained but I'm
19 not sure.

20 Q And do you know in whose name it was --

21 A I do not know.

22 Q Now, in connection with this dual IQ Computer, was there
23 a matrix of various switches in the internal operation
24 of that device?

25 A I do not understand your word matrix.

1 Q You don't -- You don't know what a matrix is?

2 A I know what a may -- matrix is, but to me it does not apply
3 to the IQ computer.

4 Q Well, was there an array of switches that was scanned
5 sequentially by mechanical device in that dual IQ Computer?

6 A An array of switches that was scanned?

7 Q Yah.

8 A No, there was not.

9 Q Was there an array of diodes in that device?

10 A They did use diodes on the scoring board, as part of the
11 circuit.

12 Q And how were those diodes arranged?

13 A I do not specifically know.

14 Q Was this array of diodes in the dual IQ Computer then the
15 design -- Strike that! Did this array of diodes such as
16 existed in the scoring system of the IQ Computer similar
17 to the array of diodes -- Strike that. Was this array
18 of diodes that existed in the dual IQ Computer --

19 MR. WELSH: I object to the question. I believe
20 he said that he did not know whether there was an array
21 or not. So your --

22 MR. LYNCH: This arrangement of diodes.

23 MR. WELSH: He said he didn't remember what it
24 was.

25 MR. LYNCH:

1 Q I'm sorry, Mr. Winter, didn't you say there were diodes
2 used in the dual IQ Computer?

3 A There were diodes used.

4 Q Were diodes of a similar arrangement used in the IQ
5 Computer, the game that preceded the dual IQ Computer?

6 A I do not know the specific arrangement of the diodes.

7 Q Now -- In -- In either device?

8 A In either device.

9 Q Now, were there diodes used in the scoring system of the
10 IQ Computer at all?

11 A Diodes were used on the photocell board and the scoring
12 board in the IQ Computer.

13 Q Okay. Now, when the dual IQ Computer came along, did that
14 design involve an arrangement of diodes, drivers or lights
15 in a grid or matrix-like pattern?

16 A I believe not. - screen unit

17 Q Now, in connection with your recollection about the
18 seeking of patent protection on the dual IQ Computer,
19 were you involved at all in that?

20 A I did not state that it was on the dual IQ Computer.

21 Q Oh.

22 A I was under the impression that a patent was applied for
23 on the original IQ Computer.

24 Q Do you know if anything was applied for on the dual IQ
25 Computer?

1 A I do not know.

2 Q So after the IQ Computer 101 and the IQ Computer which had
3 another number and the dual IQ Computer, at this point in
4 time, at the time the dual IQ Computer was introduced by
5 Nutting Industries, were those the only products with
6 which you had experience at Nutting Industries; that is,
7 the IQ Computer 101 and the IQ Computer with the other
8 number, and the dual IQ Computer?

9 A Nutting also built a game called Red Baron.

10 Q Now, when did that commence being built?

11 A I do not recall the year.

12 Q Was it after you came to --

13 A Yes.

14 Q It was. What kind of game was Red Baron?

15 A It was an arcade game which used a projection system to
16 make an image on a screen which was then fired at by the
17 operator of the game. Basically, electric-mechanical
18 type game.

19 Q Um-hmm. Now, you don't remember when that was introduced?

20 A No, I don't.

21 Q Okay. What's the next game that you can recall being
22 introduced at Nutting Industries?

23 A I believe the last game they produced was the Red Baron.

24 Q The last game they produced?

25 A Yes.

1 Q You were employed by Nutting Industries and you said that
2 the last game they produced was the dual IQ Computer or
3 Red Baron?

4 A Red Baron.

5 Q And at the time they were producing Red Baron, were they
6 producing the dual IQ Computer?

7 A I believe both were being produced simultaneously.

8 Q What happened to Nutting Industries then?

9 A It went into receivership.

10 Q What was your position with Nutting Industries when it
11 went into receivership?

12 A I left.

13 Q Who did you become employed with next?

14 A I did not become employed for about three or four months.
15 And my next job was with MCI.

16 Q Okay. When did Nutting Industries go into receivership?

17 A I for some reason cannot remember the date.

18 Q The year.

19 A I cannot remember that. It was -- I believe it was very
20 early in '73.

21 Q Okay. When did you commence your employment with MCI?

22 A About spring of '73.

23 Q And there was a three or four month hiatus where you were
24 not employed by either of these companies?

25 A That is correct.

1 Q What was the nature of the business of MCI?

2 A MCI was formed to develop, build and sell arcade games.

3 Q Did MCI accrue to the rights of any of these games that had
4 been sold prior -- previously by Nutting Industries?

5 MR. WELSH: Could I have the question, please?

6 MR. LYNCH: Let me save you the problem.

7 Q Did MCI make either the IQ Computer, the dual IQ Computer,
8 or the Red Baron?

9 A They made the Red Baron.

10 Q How about either of those IQ Computer games?

11 A I don't recall ever making and selling IQ Computer games.

12 Q Did they service those games?

13 A Yes, they did.

14 Q So they serviced the games that Nutting Industries had
15 previously put out in the field?

16 A Yes, they did.

17 Q Now, what was your position with Nutting Industries at
18 the time that it went into receivership?

19 A General manager.

20 Q Okay. What was your position with MCI at the time that
21 that company was begun?

22 A Executive vice president.

23 Q Okay. Are MCI and Milwaukee Coin the same company?

24 A MCI is also known as Milwaukee Coin Industries.

25 Q Okay. So that's the same company?

1 A Yes, it is.

2 Q Is there a Milwaukee Coin that wasn't MCI? I'm not trying
3 to be obscure.

4 A To make that clear, there is another company in Wisconsin
5 called Milwaukee Coin, and we had to name our company MCI
6 as a result. We did become known in the industry as
7 Milwaukee Coin Industry.

8 Q I see.

9 A We were not in fact Milwaukee Coin Industry; we were MCI.

10 Q Did this Milwaukee Coin Industry, did it ever have anything
11 to do with Mr. Nutting?

12 A The company -- Are you referring to the company that was
13 in existence before MCI was?

14 Q Yes.

15 A Yes -- No, it did not have anything to do with Mr. Nutting.

16 Q Did it have anything to do with arcade games?

17 A I don't know the nature of their business.

18 Q Oh, so you don't really know anything about that company,
19 is that --

20 A It was just an existing company on the statutes in
21 Wisconsin.

22 Q So let's get -- You were executive vice president of MCI
23 at the time that MCI was -- MCI's business was commenced
24 some time, you think, in the spring of 1973; correct?

25 A I believe that's correct.

1 Q Okay. What were the nature of your duties and responsi-
2 bilities as executive vice president?

3 A I was the basic business manager of the firm. And, again,
4 production and overall control were my main objectives.

5 Q Okay. And at the time that the business began, MCI began
6 its business, it was manufacturing the Red Baron game?

7 A Yes, it did.

8 Q And it was servicing the IQ Computer games?

9 A Yes, it was.

10 Q What was the next game that it commenced to manufacture?

11 A The Blue Max.

12 Q What kind of game was that?

13 A It was basically the same game as the Red Baron, except
14 repackaged in a blue cabinet. No circuit changes.

15 Q Okay. What was the next game after the Blue Max?

16 A I believe it was the Desert Fox.

17 Q Was that a target game, also?

18 A Yes, it was.

19 Q Did it involved a film projection?

20 A Yes, it did.

21 Q Involved shooting at what was on the film projection?

22 A Yes, it did.

23 Q Basically have the same theory of operation as Blue Max
24 and Red Baron?

25 A Yes, it did.

1 Q What was the next one after that?

2 A I believe it was the Flying Ace, which was a large arcade
3 version of the Red Baron.

4 Q Again, a target game?

5 A Target game. Again, the same basic modus of -- of operation.

6 Q After Flying Ace, what was the next game after that?

7 Strike that. About when are we talking about when Flying
8 Ace first started coming out, Mr. Winter?

9 A It was done in the spring to meet the spring market,
10 arcade market.

11 Q Spring of '74?

12 A No, I could be wrong on my dates. Because it was a spring
13 game, it could be spring of '73.

14 Q And then that would -- Wouldn't that have meant that the
15 that MCI was in existence in 1972 then?

16 A At this point I would say, yes, it was in existence in '72.
17 I think I'm off one year on the inception date.

18 Q All right. MCI was incorporated. Do you know if it was
19 incorporated in the State of Wisconsin?

20 A Yes, it was.

21 Q And at the time it was incorporated, that was the time it
22 was started --

23 A Yes.

24 Q -- to your knowledge? So those records would be avail-
25 able?

1 A There are records.

2 Q Okay. Do you know where -- You don't happen to have any?

3 I haven't seen anything --

4 A I haven't any records with me here.

5 Q Okay.

6 A Nail that down.

7 Q All right. Let's talk about after Flying Ace. What was
8 the next game you recall made by MCI?

9 A I believe it was the Air Ball.

10 Q And that's again a game where a stream of air was used to
11 propel a ball through various course of targets around --

12 A Yes, it was.

13 Q Okay. After Air Ball, do you recall any other games?

14 May I ask you this? Do you recall a game called Winner?

15 A I believe I recall it as being a version of the IQ Computer.

16 Q When did -- did MCI make Winner?

17 A I do not recall marketing any game by the name of Winner.

18 Q How about a game called Puzzler?

19 A We did make a small run of games called Puzzler.

20 Q Did you make any game, IQ Computer games -- Up through the
21 time you were manufacturing this game you indicated which
22 was the Air Ball, did MCI undertake to manufacture any
23 IQ Computer type games?

24 A I believe we did.

25 Q What was -- Which games were they? What were their

1 designation?

2 A I do not recall their names at this point.

3 Q Do you recall how they operated? Strike that. Do you

4 recall if there were any differences between those games
5 and the IQ Computer of the design that had been used for
6 Nutting Industries?

7 A All versions of the IQ Computer subsequent to the original
8 change were with regard to the cabinetry or cosmetics.

9 Most of the models had minor electrical improvements or
10 additions, and improvements in the projection system.

11 Q How about the Puzzler? Do you know if the Puzzler game
12 had a matrix in it?

13 A I believe the Puzzler game did have a matrix in it.

14 Q What was the nature of the matrix?

15 A As I recall it was a large printed circuit board with
16 several hundred diodes.

17 Q And to your recollection was that the first game that
18 had such a matrix printed circuit board?

19 A I'm not sure.

20 Q Was it also called the mother board?

21 A The large board I'm referring to would have also been
22 called the mother board.

23 Q In that particular device?

24 A Yes.

25 Q Now, this Puzzler game, was this sold during the year

1 1973 by MCI?

2 A I do not recall the actual marketing of the Puzzler game.

3 Q Was it before 1974?

4 A I'm sorry. I can't recall.

5 Q Before 1975?

6 A It would definitely be before '74 or '75.

7 Q Okay.

8 A Before '74.

9 Q Okay. I understand. You know, just if I get a big
10 bracket at least I have a bracket. Before last week, we
11 can start with that. Now we've got it before 1974. Okay.
12 Now, with respect to this mother board idea, did you have
13 any discussions with -- Strike that. You were in charge
14 of production at the time the Puzzler and the time in
15 which the mother board matrix was being produced; isn't
16 that correct?

17 A My duties at MCI were production oriented.

18 Q Now, did you ever have any discussions -- Strike that.
19 Do you know who developed this idea of a matrix in the
20 Puzzler game?

21 A I am not sure.

22 Q Were you on hand when that design was made?

23 A Yes, I was.

24 Q I mean present while the design was being made.

25 A I was an employee of the company, yes.

1 Q I understand you were an employee of the company, but were
2 you typically at the time that design was made dealing
3 with the designers on a day-to-day basis about their
4 design?

5 A I don't believe I was.

6 Q Okay. At this time, the time that the Puzzler matrix was
7 generated, were Mr. Montgomery and Mr. Nutting basically
8 doing the design for MCI?

9 A No, Mr. Montgomery was not an employee of MCI at the time.

10 Q Who was doing the design at that time?

11 A Our electrical design work was done by Duane Knuetson,
12 Roger Budnick ---

13 Q B-u-d-n-i-c-k?

14 A Yes. Dave Nutting, and a consulting engineer by the name
15 of Robert Mauger.

16 Q Robert Mauger, M-a-u-g-e-r?

17 A Yes.

18 Q Is he living in the Milwaukee area?

19 A I don't know.

20 Q Was he at that time?

21 A Yes, he was.

22 Q When was the last time you saw Mr. Mauger?

23 A I think about three years ago.

24 Q Was he living in Milwaukee at that time?

25 A Yes.

1 same grounds --

2 MR. LYNCH:

3 Q Do you --

4 MR. WELSH: -- advise the witness he need not
5 answer.

6 MR. LYNCH:

7 Q Do you refuse to answer that, Mr. Winter?

8 A I do.

9 Q You won't tell me about what they told you what Jeff
10 Frederiksen said in this lawsuit. How about David
11 Nutting? Did they discuss with you any testimony or
12 allegations Mr. Nutting has made in this lawsuit?

13 MR. WELSH: Same objection. Advise the witness
14 not to answer.

15 MR. LYNCH: Why are you advising the witness
16 not to answer?

17 MR. WELSH: Because they're privileged communica-
18 tions, counsel; it's an improper question.

19 MR. LYNCH: It's a privileged --

20 Q It is true that then Mr. Frederiksen and Mr. Nutting's
21 testimony in this lawsuit prior to this date was discussed
22 with you; is that correct?

23 MR. WELSH: I object to the question and advise
24 the witness he need not answer.

25 MR. LYNCH:

1 Q Is that correct, that it was discussed with you, Mr.
2 Winter?

3 A No reply.

4 Q All right. Mr. Winter, tell me precisely how Mr.
5 Frederiksen designed the Safe game in 1973?

6 A Precisely how?

7 Q Um-hmm.

8 A I cannot.

9 Q Didn't you have discussions with him about the design
10 of the Safe game?

11 A Yes, I did.

12 Q What was the concept for how to design the Safe game?

13 A He used a totally electronic approach, i.e., we did not
14 use relays as we normally had in the past to accomplish
15 functions of scoring, light initiation. He built the
16 board, he built the Safe game electronic system on one
17 large mother board. --

18 Q Okay.

19 A --which was against my own beliefs as a technique.

20 Q Okay.

21 A He completed the game along his design.

22 Q How do you know it was his design? Did he tell you?

23 MR. WELSH: Counsel, you interrupted him again.

24 MR. LYNCH: I'm trying to find the foundation.

25 MR. WELSH: I insist you let the witness answer

1 the question.

2 MR. LYNCH: I'm sorry, Mr. Winter.

3 THE WITNESS:

4 A Jeff Frederiksen was the only man in our organization
5 that could do electronic design in total, or had the
6 capacity to do it. He designed the total mother board
7 electronic system for the Safe game.

8 MR. LYNCH:

9 Q Is the case you're assuming he did it because he was the
10 only one in your opinion that had the capability; is that
11 correct? . . .

12 A That's correct.

13 Q And he designed this mother board for the Safe. Now, did
14 the mother board for the Safe have a matrix quality or
15 arrangement to it?

16 A The mother board did not have in my mind a matrix quality
17 to it.

18 Q But the mother board for some of the other devices did
19 at that time; isn't that correct; that is, the Puzzler?

20 A Some of the earlier games did.

21 Q And this -- Strike that. Okay. And so then with respect
22 to the work that Mr. Frederiksen began doing, you are
23 placing his work on this total electronic concept --
24 concept, which he embarked on after the Safe, you're
25 placing it in time by virtue of the fact that you knew

1 A I do.

2 Q So -- And you refuse to answer questions about any
3 information you got from these gentlemen concerning that
4 array of incandescent lamps or any discussions that
5 preceded this deposition with respect to this array of
6 incandescent lamps; is that correct?

7 A I am accepting counsel's advise with regard to that
8 subject.

9 MR. WELSH: That is, conversations between him
10 and me.

11 MR. LYNCH: I am not deposing you, Mr. Welsh.
12 The question is what it was. Do you want it read back?

13 MR. WELSH: No.

14 MR. LYNCH:

15 Q Now, have you had any conversations with Mr. Frederiksen
16 prior to this deposition within the last year?

17 A Yes.

18 Q Okay. I want you to tell me about that conversation.

19 A I called Jeff after I had received a call from a lawyer
20 in Appleton whose name escapes me right now, and stated that
21 I had been contacted by a man who was representing Williams.

22 Q That's Mr. Rifkin?

23 A Yes, it was.

24 Q Okay.

25 A And Jeff said, oh, they have contacted you. Jeff started

1 to tell me how I should act and behave, and I said,
2 Jeff, I'll handle myself. I just wanted you to know that
3 I had been contacted.

4 Q Specifically, what did he tell you about how to act and
5 behave? What was he suggesting?

6 A He suggested that I not talk to Mr. Rifkin.

7 Q And eventually you did not talk to Mr. Rifkin?

8 A That is true.

9 Q How about Mr. Nutting? Did you have any conversations
10 with Mr. Nutting in the last year? Strike that, please.

11 MR. LYNCH: Do you gentlemen have any preference
12 as to when to break?

13 MR. WELSH: Fine.

14 MR. LYNCH: Is that an expression of preference?

15 MR. WELSH: I assume any time. We certainly
16 want lunch.

17 MR. LYNCH: Let me go a little bit further.

18 Let me just -- let me get through this part and we'll
19 break.

20 Q Was that the only conversation you had with Mr. Frederiksen?

21 A Yes, it was.

22 Q How about Mr. Nutting?

23 A I have talked several -- You asked if I had talked with
24 Mr. Nutting within the last year?

25 Q Um-hmm.

1 A I have talked to Mr. Nutting probably several times within
2 the last year, and only once with reference to the subject
3 we're now into.

4 Q That's this lawsuit?

5 A Yes.

6 Q And what occurred at MCI back in the 1970 -- early 1970's?

7 A We didn't even get that detailed.

8 Q Tell me about that conversation with Mr. Nutting? What
9 caused it to occur?

10 A After I had talked with Jeff, I really asked to talk to
11 Dave Nutting and Dave called me back. I basically told
12 him the same thing, that I had been called by Mr. Rifkin
13 who was representing Williams, and he kind of laughed,
14 and we talked just in generalities about the fact that I
15 might be called to -- for a deposition with regards to the
16 case.

17 Q What did -- Did he tell you anything about the case at
18 that time?

19 A Nothing.

20 Q So is -- this is only one coversation you had with Mr.
21 Nutting concerning the subject matter of this litigation?

22 A That's correct.

23 Q You haven't talked to either him or Mr. Frederiksen con-
24 cerning the matters that have been heretofore involved in
25 this deposition --

1 A That is correct.

2 Q -- the two occasions testified about?

3 A That is correct.

4 MR. LYNCH: All right. We might as well take
5 a luncheon break now. Can we resume at 1:15?

6 MR. WELSH: We'll try to get back.

7 (A recess was taken at 12 o'clock noon.)

8 (The deposition reconvened at 1:20 p.m.)

9 MR. LYNCH: Gentlemen, we might as well get some
10 things straight here. Do it the way you want to do it.
11 First of all, we're going to have to move before Judge
12 Grady -- I'm going to move before Judge Grady that if
13 any of this witness' testimony is intended to be introduced
14 at trial by Bally or on behalf of Bally, that the various
15 conversations he's had with Bally counsel will be inquired
16 into. You can -- We can do this on any schedule you want.
17 I can go through this today and bring Mr. Winter back on
18 another occasion, or we can go down and talk to the Judge.
19 Furthermore, I understand that you told Mr. Rifkin that
20 you've got a considerable amount of examination of Mr.
21 Winter so we might be here another day.

22 MR. SCHNAYER: I said merely we had examination.
23 I want to make sure we had the right to cross-examination.
24 I didn't say how much we had. I said I wanted the right
25 to cross-examination, and that we understood we did have

1 that right, and that we didn't cut off before --

2 MR. LYNCH: I want to know who you're represent-

3 ing when you say cross-examining. You're the lawyers for

4 this gentleman. I don't think you can cross-examine him

5 under those circumstances. But -- But we can have it

6 any way you want to have it.

7 MR. WELSH: Well, you know our position so what

8 whatever you feel you have to do.

9 MR. LYNCH: I'd just as soon Mr. Winter let me

10 know. I'll come back. I think I would rather come back

11 and finish the deposition all at one shot rather than

12 have to go back, because I am going to correlate an

13 awful lot of his testimony. I mean, to -- to -- to

14 what you told him, and I -- I just think it's going to

15 be redundant. I think I've got enough of a record right

16 now. I can ask Miss Hackbarth to -- to go through this,

17 you know, to provide us with this transcript, and I think

18 it provides a sufficient amount of information. I --

19 really, Mr. Winter, I have no desire at all to -- to in-

20 convenience you, but the thing I'm saying, if we come

21 back then I can finish it then. If the Judge says no,

22 I'll finish without that kind of testimony. I'll finish

23 him up at a later time, since it's more convenient,

24 since I believe there is a significant opportunity that

25 the Judge is going to let me inquire into these areas.

By the way, as far as your right to cross-examine, you know that will come at the end. I'm not trying to deprive you of that at the time we come back for this, so suit yourself. I just think it will be shorter for Mr. Winter if we do it this way. Because I'm going to want to correlate all of the various aspects of his testimony to what -- what discussions he's had with Bally's counsel.

MR. WELSH: Are you planning to use any of the testimony thus far in the patent office before you complete the deposition?

MR. LYNCH: How do I know? I don't know. I really have no idea. I mean, but I -- I do feel it is important at this time to -- to just let you know that I mean I might use it. I don't know what I'll use. I -- I -- You mean am I cutting it off now so you don't have the right --

MR. WELSH: Um-hmm.

MR. LYNCH: You're his lawyer. You can get Mr. Winter's affidavit if I did that. No big problem. Doesn't represent, you know, a big problem. As far as I can see.

MR. GOLDENBERG: John, there is another reason and that these --

MR. LYNCH: And then there is the documents, too. I mean, let's talk -- Are you still adhering to

1 STATE OF WISCONSIN)
2) SS.
3 COUNTY OF MILWAUKEE)

4 I, KATHLEEN M. HACKBARTH , a Notary Public
5 in and for the State of Wisconsin, do hereby certify that the
6 foregoing deposition was taken before me at 825 North Jefferson
7 Street , in the City of Milwaukee , County of Milwaukee ,

8 State of Wisconsin, on the 17th day of June , 1980 ,

9 commencing at 9:30 o'clock a.m.; that it was taken at
the instance of the **Defendants**,

10 upon verbal interrogatories; that it was taken in shorthand
11 by me, a competent court reporter and disinterested person,
12 approved by all parties in interest, and thereafter reduced to
13 typewriting under my direction; that said deposition is a true
14 record of the deponent's testimony; and that said typewritten
15 transcript is to be used in the above-entitled action now
16 pending in United States District Court, Northern District
of Illinois, Eastern Division

17 that the appearances were as shown on Page 1 and 2 ; that

18 the deposition was taken pursuant to Notice and Agreement ;

19 that the said DANIEL N. WINTER , before

20 examination, was sworn by me to testify the truth, the whole

21 truth and nothing but the truth relative to said cause.

Dated this 17th day of June , 1980 .


Kathleen M. Hackbart
Notary Public, State of Wisconsin

My commission expires August 10, 1980.

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4 -----
5 BALLY MANUFACTURING CORPORATION,
6 Plaintiff,

7 Case No. 78-C-22
8 -vs-
9 D. GOTTLIEB & CO., WILLIAMS
10 ELECTRONICS, INC., and ROCKWELL
11 INTERNATIONAL,
12 Defendants.

13 CONFIDENTIAL
14 SUBJECT TO PROTECTIVE ORDER

15 This envelope contains documents which were filed in
16 this case by Bally Manufacturing Corporation and is
17 not to be opened, nor the contents to be displayed or
18 revealed, except by, or upon order of, the Court
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

3 EASTERN DIVISION

4 -----
5 BALLY MANUFACTURING CORPORATION,

6 Plaintiff,

7 -vs-

Case No. 78-C-224

8 D. GOTTLIEB & CO., WILLIAMS
9 ELECTRONICS, INC., and ROCKWELL
INTERNATIONAL,

10 Defendants.

11 -----
12
13 SPECIAL CONFIDENTIAL
14 SUBJECT TO PROTECTIVE ORDER

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